

### **REMARKS**

Claims 1, 9, 29 and 34 have been amended. Claims 3, 4, 11, 12, 27, 28, 31, 32, 36, 37, 39 and 40 have been canceled, without prejudice. The application as amended contains claims 1, 6, 8, 9, 14, 16, 29, 34, 41 and 42.

Claims 1, 6, 8, 29, 41 and 42 are rejected under 35 U.S.C. § 103 as being unpatentable over Hitoshi in view of Iida, and even further in view of Akiba. Reconsideration is respectfully requested. Claims 1 and 29 have been amended to obviate the rejection. Claims 1 and 29 have been amended to recite limitations from allowed (now canceled) claims 4 and 32, and intervening (now canceled) claims 3 and 31, and some limitations have been deleted from claims 1 and 29, as apparent from the marked-up listing of the claims provided above.

Hitashi, Iiida and Akiba, even when considered together, do not suggest the position control method of amended claim 1, which comprises the step of,

“if the predetermined data is not readable, switching to a criterion that includes shifting an on-track determination position in the tracking error signal by a predetermined amount and controlling the position of the object lens with the tracking error signal, said on-track determination position of the tracking error signal being a position at which it is determined that on-track occurs, and wherein the predetermined amount equals half of a wavelength of a waveform of the tracking error signal.”

The step was previously recited in dependent claim 4. Claim 1, as amended, should be allowable over the cited references. Claims 6, 8, 41 and 42 depend from claim 1 and should be allowable along with claim 1 and for other reasons.

The remaining claims – claims 9, 14, 16, 29 and 34, as amended, recite limitations that are the same as or similar to those discussed above in connection with claim 1. Claims 9, 14, 16, 29 and 34, as amended, should be allowable along with claim 1 and for other reasons.

Allowance of the application is solicited.

Dated: November 3, 2008

Respectfully submitted,

By 

Mark J. Thronson

Registration No. 33,082  
DICKSTEIN SHAPIRO LLP  
1825 Eye Street, NW  
Washington, DC 20006-5403  
(202) 420-2200

Attorneys for Applicant